

Attorney Docket No.: 1017 P047US

10/044,408

Accordingly, Applicant disagrees, at least in part, with the Examiner's reasoning for the election/restriction, but nevertheless hereby elects Group I, Claims 1-5, 12-16 and 37, drawn to a detail of wireless transmitting laser in laser ultrasonic system, classified in class 700, subclass 11. Applicant reserves the right to file Divisional applications on the non-elected invention.

The applicant respectfully requests reconsideration of the election/restriction pursuant to 37 CFR § 1.143, provides the reasons therefore below, and provisionally elects Group I, Claims 1-5, 12-16 and 37.

35 USC 112, fourth paragraph, states, in part, "a claim in dependent form shall contain ... a further limitation of the subject matter claimed ... [and] shall be construed to incorporate by reference all the limitations of the claim to which it refers".

In the present patent application, claims 6-11 of Group II properly dependent from claim 1 of Group I, which corresponds to at least one disclosed embodiment of the invention. Thus, by definition, dependent claims 6-11 of Group II provide additional limitations to the at least one embodiment covered by independent claim 1. As such, independent claim 1 of Group I and dependent claims 6-11 of Group II are providing varying breadth and/or scope of definition of the at least one disclosed embodiment.

In the present patent application, claims 30 and 34 of Group II properly dependent from claim 26 of Group III, which corresponds to at least one disclosed embodiment of the invention. Thus, by definition, dependent claims 30 and 34 provide additional limitations to the at least one embodiment covered by independent claim 26 of Group III. As such, independent claim 26 of Group III and dependent claims 30 and 34 of Group II are providing varying breadth and/or scope of definition of the at least one disclosed embodiment.

MPEP 806.03 states, in part, "where the claims of an application define the same essential characteristics of a *single* disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition". Accordingly, claims 6-11 should not be subject to restriction since they are different definitions of the same disclosed subject matter of Claim 1, varying in breadth or scope of definition. Similarly Claims 30 and 34 should not be subject to restriction since they are different definitions of the same disclosed subject matter of Claim 26, varying in breadth or scope of definition.

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Applicant respectfully requests that the docket number for this case be changed to, 1017 P047US.